 <b>VERMONT</b> <b>DEPARTMENT FOR CHILDREN AND FAMILIES</b> Family Services Policy Manual		<b>89</b>
Chapter:	Working with Families in Court	
Subject:	Locating and Evaluating Suitability of Noncustodial Parents, Relatives and Others	Page 1 of 12
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## Purpose

To provide information to staff locating noncustodial parents, relatives and others with a significant relationship to the child, as required by 33 VSA Chapters 52 and 53, when a child in temporary DCF custody (See also Policy #88 Identifying and Locating Absent Parents.)

To provide guidance about assessing the suitability for those individuals to assume temporary or ongoing custody of a child pursuant to an order by the family court.

## Table of Contents

Purpose .....	1
Table of Contents .....	1
Policy .....	2
Part 1: General Information.....	2
Priority on Reunification with Custodial Parent .....	2
Methods to Locate Relatives and Absent Parents .....	2
Providing Information to Persons Who May Be Assessed.....	3
Assessing Suitability of Noncustodial Parent, Relatives and/or Persons with Significant Relationship .....	3
Obtaining Criminal Records .....	4
Concerns about Child Abuse and Neglect and Other Safety Concerns.....	4
Evaluating Child Protection or Criminal Records History.....	5
Reporting to the Court .....	5
Non-custodial Parents and Relatives Living Out of State .....	6
Part 2: The Non-Custodial Parent.....	6
Identifying Absent Parents/Establishing Parentage .....	6
Factors in Assessing the Suitability of the Noncustodial Parent.....	6
Part 3: Relatives and Others with Significant Relationship with Child.....	7
Statutory Requirements for Identifying and Locating Relatives.....	7
Factors in Assessing Relatives & Others with a Significant Relationship to the Child..	8
Long Term Impact of Relative's Choices (revise when brochure done).....	9
School Stability for Children in the Temporary Custody of a Relative.....	11
Social Worker Tasks .....	11

 <b>VERMONT</b> DEPARTMENT FOR CHILDREN AND FAMILIES Family Services Policy Manual		<h1>89</h1>
Chapter:	Working with Families in Court	
Subject:	Locating and Evaluating Suitability of Noncustodial Parents, Relatives and Others	Page 2 of 12

## Policy

### Part 1: General Information

#### Priority on Reunification with Custodial Parent

The priority for the Family Court, and for the division, is to safely return a child in DCF custody to his or her custodial parent at the temporary care hearing. Only when this is not possible, does it become necessary to explore other custodial options for the child.

#### Methods to Locate Relatives and Absent Parents


The social worker should ask the custodial parent, the noncustodial parent and any known relatives to identify absent parents, other relatives and persons important to the child. If any of these individuals cannot be located, the social worker should commence a search for them.

The best source of information is the child's custodial parent. If the parent is unwilling to provide the information, the social worker will ask the family court to order the custodial parent to provide the necessary information. The social worker will seek to understand if safety concerns are contributing to the parent's lack of cooperation. If so, the social worker will seek consultation with the domestic violence unit about a safe plan to share information.

The child's relatives are also a good source of information about the absent parent. In addition, the following databases are immediately available and should be consulted as appropriate:

- Economic Services' Access database
- Department of Corrections database
- Vermont Court (VCAS)
- Sex Offender Registry
- CLEAR person-finding subscription database.

The Child Benefit's Unit (CBU) subscribes the Federal Parent Locator Service (FPLS) (which can also be used to locate relatives) and should be consulted when the foregoing methods are not successful. To request that the CBU initiate a search, send Parent and

 <b>VERMONT</b> <b>DEPARTMENT FOR CHILDREN AND FAMILIES</b> Family Services Policy Manual		<b>89</b>
Chapter:	Working with Families in Court	
Subject:	Locating and Evaluating Suitability of Noncustodial Parents, Relatives and Others	Page 3 of 12

Relative Search Form (FS-705) in an e-mail message to the Child Benefits Unit supervisor in Central Office.

Use of database searches does not eliminate the responsibility of the social worker to make other efforts to locate absent parents. Such efforts should continue to be made and documented.

### **Providing Information to Persons Who May Be Assessed**

The division has developed information brochures for custodial parents, noncustodial parents, and for relatives and others. The brochures contain relevant information about the temporary care hearing, options to become involved in caring for the child, etc. For noncustodial parents and relatives, the brochure also provides a release form for background checks.

The social worker will provide a brochure to parents before the temporary care hearing, and, as appropriate, to relatives and persons with a significant relationship with the child.


### **Assessing Suitability of Noncustodial Parent, Relatives and/or Persons with Significant Relationship**

When the division has identified a person who may be appropriate, capable, willing, and available to assume temporary custody of the child, the division will assess his or her suitability to care for the child.

It is not necessary for the division to assess every person who might potentially assume custody of the child. If the noncustodial parent wishes to assume custody of the child, the assessment of that person should be conducted first. If the noncustodial parent appears suitable, it is not necessary to proceed with assessment of relatives.

If there are several relatives who might be appropriate, the social worker should prioritize relatives using any or all of the following criteria:

- Relatives with close and positive emotional ties to the child;
- Relatives who live in a place that will make it possible for the child to remain in the same school, and to maintain ties with parents, sibling and others important to the child.
- Relatives who are likely to provide support to the custodial parent as he or she works towards case plan goals.

 <b>VERMONT</b> DEPARTMENT FOR CHILDREN AND FAMILIES Family Services Policy Manual		<h1>89</h1>
Chapter:	Working with Families in Court	
Subject:	Locating and Evaluating Suitability of Noncustodial Parents, Relatives and Others	Page 4 of 12

Any assessment shall include:

- 1) consideration of the person's ability to care for the child's needs, including any special needs (see following sections);
- 2) a check of allegations of prior child abuse or neglect by the person or by other adults in the person's home;
- 3) a check of VCAS to determine if the person has been the subject of a Relief from Abuse order; and,
- 4) a criminal history record.

The court may continue the temporary care hearing when necessary to complete the assessment.

### **Obtaining Criminal Records**

For any person being assessed for suitability, the division will seek written authorization to obtain their criminal history record from the Vermont Criminal Information Center (VCIC). All releases for VCIC checks will be sent to the Residential Licensing Unit.


If the division has reason to believe that person has resided or been employed in any other state, the division must request, through VCIC, criminal history record information from those states. This will be done through the Residential Licensing Unit.

If no disqualifying record is identified at the state level, statute requires that the division request, through VCIC, a national criminal history record check of the person's criminal history through the Federal Bureau of Investigation (FBI). The individual must submit fingerprints. The division has an agreement with VCIC to cover the costs of the FBI check.

Once received, Division staff will promptly provide a copy of the criminal history record, if any, to the person.

### **Concerns about Child Abuse and Neglect and Other Safety Concerns**

The statute specifies that, as part of the assessment of noncustodial parents, relatives and others, the division check allegations of prior child abuse or neglect by the person or by other adults in the person's home. Allegations include any history of:

 <b>VERMONT</b> DEPARTMENT FOR CHILDREN AND FAMILIES Family Services Policy Manual		<b>89</b>
Chapter:	Working with Families in Court	
Subject:	Locating and Evaluating Suitability of Noncustodial Parents, Relatives and Others	Page 5 of 12

- Intakes, whether or not they resulted in an accepted report;
- Child abuse investigations or assessments, whether or not they resulted in substantiation.

In reporting results, it is very important to be clear about the nature of the concern and how long ago it occurred. In particular, substantiated investigations or cases that were opened for ongoing service are given more weight.

The custodial parent, and when possible and appropriate, other children and/or family members should be consulted about safety concerns about any of the persons being assessed.

### **Evaluating Child Protection or Criminal Records History**

The social worker may find that the parent or relative has a child protection or criminal background history or other concerns such as domestic violence, active or recent history of substance abuse, mental health concerns, etc.


The concerns should be evaluated based on severity and whether they are current or historical. Some concerns indicate that safety cannot be assured in the home. Others may not preclude appropriate care for the child with adequate safety planning. The Residential Licensing Unit or the Domestic Violence Unit is a resource for consultation about these issues.

### **Reporting to the Court**

The division does not make a recommendation to the court about the transfer of temporary custody to another person; rather the division provides information to the court to inform the court's decision.

The format for the report to the court is as follows:

- Assessment of Suitability of Noncustodial Parent (FS-805)
- Assessment of Suitability of Relative or Other Person with Significant Relationship to Child (FS-806)

 <b>VERMONT</b> DEPARTMENT FOR CHILDREN AND FAMILIES Family Services Policy Manual		<b>89</b>
Chapter:	Working with Families in Court	
Subject:	Locating and Evaluating Suitability of Noncustodial Parents, Relatives and Others	Page 6 of 12

### **Non-custodial Parents and Relatives Living Out of State**

The court can legally give custody to a noncustodial parent living out of state without an ICPC homestudy or ICPC approval if the parent is not the subject of the CHINS petition.

If the judge does request and/or the department initiates ICPC approval on a noncustodial parent, then placement may only take place upon completion of the interstate homestudy and approval of the receiving state.

It is an ICPC violation for a judge to give custody to an out of state relative without ICPC homestudy and approval. For out of state relatives, the social worker should inform the judge that DCF does not have the authority to conduct an assessment or background checks. That request must be made through the ICPC.

## **Part 2: The Non-Custodial Parent**

### **Identifying Absent Parents/Establishing Parentage**

As required by statute, when a child enters care the child's social worker will make immediate efforts to identify the child's parents, and, in cases in which parentage has not yet been determined, any other individual identified as or who asserts that he or she may be a parent of the child.


The court may order a custodial parent to provide DCF with information regarding the identity and location of a noncustodial parent. The social worker should, if necessary, ask the judge to make such an order.

If the noncustodial parent cannot be located, the department must provide, at the temporary care hearing, a summary of the efforts made to locate the parent on the form Information for Temporary Care Hearing (FS-605).

See also Policy No. 88 Identifying and Locating Absent Parents for guidance about situations in the parent's identity is unknown, or contested, or the parent has been long absent.

### **Factors in Assessing the Suitability of the Noncustodial Parent**

The division's assessment of the noncustodial parent will focus on the parent's ability to provide for a safe, secure and stable home for the child; effective care and control of the child, and, if appropriate, a continuing relationship with the custodial parent, by:

 <b>VERMONT</b> DEPARTMENT FOR CHILDREN AND FAMILIES Family Services Policy Manual		<b>89</b>
Chapter:	Working with Families in Court	
Subject:	Locating and Evaluating Suitability of Noncustodial Parents, Relatives and Others	Page 7 of 12

1. describing the parent's relationship with the child, including any reason the parent does not have an ongoing relationship with the child. The parent's history of compliance with orders to pay child support are relevant to this consideration.
2. identifying any safety concerns that the child and/or the custodial parent (or others) have about the noncustodial parent;
3. identifying any "allegations of prior child abuse or neglect by the person or by other adults in the person's home." (33 VSA § 5307 5(B). This includes intakes, assessments, investigations and substantiations (see following section on use of departmental records)
4. identifying any criminal history on the part of the noncustodial parent(see following section on criminal background checks)

The assessment is not a homestudy, but rather a review of factors that might raise concerns about the person's ability to provide safe and appropriate care for the child.

FSD Social Workers may not assess noncustodial parents living out of state; rather, a request for an ICPC homestudy should be made.

### Part 3: Relatives and Others with Significant Relationship with Child

#### **Statutory Requirements for Identifying and Locating Relatives**


Both federal and state law require the division to take affirmative steps to identify and potentially engage relatives as a resource for a child in custody.

Under state law (33 VSA § 5307), the division is required to provide, at the temporary care hearing, "the identity and location of a noncustodial parent, a relative, or person with a significant relationship with the child known to the department who may be appropriate, capable, willing, and available to assume temporary legal custody of the child".

Title IV-E of the Social Security Act requires that within 30 days of the removal of a child from parental custody, the state exercise due diligence to identify and provide notice to:

- all grandparents and,
- other adult relatives of the child (including any other adult relatives suggested by the parents). In informing these relatives, the division will



 <b>VERMONT</b> DEPARTMENT FOR CHILDREN AND FAMILIES Family Services Policy Manual		<h1>89</h1>
Chapter:	Working with Families in Court	
Subject:	Locating and Evaluating Suitability of Noncustodial Parents, Relatives and Others	Page 8 of 12

prioritize relatives who living nearer to the child and/or who have a close relationship with the child.

Exceptions may be made if there are family or domestic violence issues.

Specifically, Title IV-E directs that the relatives be notified that:

- the child has been or is being removed from the parent’s custody;
- the options for them to participate in the care and placement of the child;
- the process for becoming a licensed foster family;
- the supports and services available to foster families; and
- if the state has opted to make kinship guardianship payments, how a relative guardian may enter into a guardianship agreement with the state.

Family Services has developed a brochure that explains the required notifications.

#### **Factors in Assessing Relatives & Others with a Significant Relationship to the Child**


The first priority is to assess the suitability of near relatives, which are defined in Vermont statute as the child’s grandparent, great-grandparent, aunt, great-aunt, uncle, great-uncle, stepparent, sibling, or step-sibling of the child.

The assessment of the suitability of near relatives, other relatives, or other individuals will focus on the person’s ability to:

1. Provide a safe, secure, and stable environment and exercise proper and effective care and control of the child. This includes consideration of:
  - a. the relative’s relationship with the child;
  - b. the relative’s home, finances and health, as they relate to the person’s ability to provide care for the child and meet the child’s individual needs;
  - c. child protection history of the person and their household members; and,
  - d. criminal background history of the person (see following sections)
2. Protect the child from the custodial parent to the degree the court deems such protection necessary.
3. Support reunification efforts, if any, with the custodial parent.
4. Consider providing legal permanence if reunification fails.

The assessment is not a homestudy, but rather a review of factors that might raise concerns about the person’s ability to provide safe and appropriate care for the child.



 <b>VERMONT</b> DEPARTMENT FOR CHILDREN AND FAMILIES Family Services Policy Manual		<h1>89</h1>
Chapter:	Working with Families in Court	
Subject:	Locating and Evaluating Suitability of Noncustodial Parents, Relatives and Others	Page 9 of 12

Many times, the events that led up to the CHINS petition have also strained the relationship between the parent(s) and the child's relatives. When there is strain or conflict, the social worker should assess the impact of the conflict on the ability of the relative to provide safety and security for the child? Specifically:


- What is the nature of the relationship between the relative and the child?
- Can the parent and relative manage their emotions to minimize negative impact on the child?
- Is the conflict likely to significantly interfere with a reunification plan that the court may order?

FSD Social Workers may not assess relatives living out of state; rather, a request for an ICPC homestudy should be made.

### Long Term Impact of Relative's Choices

If a relative is considering assuming custody of the child, it is important to inform relatives of the following realities:


<b>If you are granted custody</b>	<b>If DCF places the child with you in foster care</b>
You are in control of decisions made about the child, except as otherwise ordered by the court.	DCF is in control of many decisions made about the child. DCF may decide to remove the child from your care if there are concerns about the child's safety or wellbeing.
You will be responsible for carrying out a plan for the child's return home, if that is the plan. A DCF social worker may or may not be involved, depending upon the type of orders made by the court.	A DCF social worker is assigned to support you, and the child's parents, in carrying out the plan for the child.
You will be responsible for carrying out the plan for contact with the child's parents.	DCF will assist in carrying out the plan for family contact. Mileage reimbursement is available if you transport the child for visits.
You are responsible for obtaining needed supports and services for the child, advocating for the child in school, etc.	DCF will assist in obtaining needed supports and services for the child and the parents. DCF will assist in advocating for

 <b>VERMONT</b> DEPARTMENT FOR CHILDREN AND FAMILIES Family Services Policy Manual		<h1>89</h1>
Chapter:	Working with Families in Court	
Subject:	Locating and Evaluating Suitability of Noncustodial Parents, Relatives and Others	Page 10 of 12

<b>If you are granted custody</b>	<b>If DCF places the child with you in foster care</b>
	the child in school. DCF will pay for needed services for the child.
You will likely be eligible for a child-only public assistance grant (called ReachUp in Vermont), as it is the child's income and assets that are considered, not yours. Please note that when you have siblings, the payment is reduced for each additional child.	You will receive a foster care payment for each child placed with you, based on the child's needs and the expectations of you.
The child will receive Medicaid.	The child will receive Medicaid.
You may receive child support. However, if the child is on public assistance, child support will go to the public agency.	Any child support will go to DCF.
The child can stay in his or her current school only until the disposition hearing. You will be responsible for transportation. Longer term, if you live in another town, the child will likely have to change schools.	The child can stay in the current school if it in his or her best interest. DCF is responsible for the cost of transportation, which may include mileage reimbursement to you.
If the child cannot return home, and you want to become the child's permanent guardian or adopt the child, you will not be eligible for ongoing financial support through DCF. And, the child may not be eligible for public assistance any longer	If the child cannot return home, and you want to become the child's permanent guardian or adopt the child, you may be eligible for ongoing financial support through DCF, including Medicaid for the child.
If you receive public benefits yourself, to ReachUp, 3 Squares VT (Food Stamps), Fuel Assistance, SSI, Social Security Disability etc., those benefits may be affected. <b>Contact the public agency to find out</b>	If you receive public benefits yourself, to ReachUp, 3 Squares VT (Food Stamps), Fuel Assistance, SSI, Social Security Disability etc., those benefits may be affected. <b>Contact the public agency to find out!</b>

The social worker will:

- Provide relatives with the booklet entitled: A Resource Guide for Kinship Care Providers

 <b>VERMONT</b> DEPARTMENT FOR CHILDREN AND FAMILIES Family Services Policy Manual		<b>89</b>
Chapter:	Working with Families in Court	
Subject:	Locating and Evaluating Suitability of Noncustodial Parents, Relatives and Others	Page 11 of 12


- Inform relatives about Vermont Kin as Parents as a resource for information and support in decision-making about these issues.

### **School Stability for Children in the Temporary Custody of a Relative**

When a juvenile court judge has placed a child in the temporary custody of a relative the child may remain in his or her school district of origin until disposition. If the child remains in the relative's custody after disposition, the child will usually attend school attended by children living in the relative custodian's town of residence. Exceptions can be made, but only with the agreement of both school districts.

### **Social Worker Tasks**

- If the identity or location of the noncustodial parent is unknown to the division and the custodial parent does not provide information voluntarily, identifies any concerns about violence that may be contributing. As appropriate, asks judge to order the custodial parent to provide information.
- Provides the parent who had custody of the child with Information for Custodial Parent (FS-801)
- Discusses with supervisor the possibility of the child returning to the custodial parent, with or without conditions. If this is likely, delays pursuing assessment of other individuals.
- If it is not likely that the child will return to the custodial parent at the temporary care hearing, contacts noncustodial parent (if identity and location known) to determine if they will request custody. If so, proceeds with assessment, as outlined in policy.
- Provides relatives or others with a significant relationship with the child with notice required by federal law by providing a copy of the division's brochure for relatives.
- If the child will remain in out-of-home care, seeks to identify relatives who may be available and appropriate to assume care of the child.
  - Asks parents, siblings and other relatives for information.
  - If information is not available, requests that the Child Benefits Unit conduct a family-finding query.

 <b>VERMONT</b> <b>DEPARTMENT FOR CHILDREN AND FAMILIES</b> Family Services Policy Manual		<b>89</b>
Chapter:	Working with Families in Court	
Subject:	Locating and Evaluating Suitability of Noncustodial Parents, Relatives and Others	Page 12 of 12

- If more than one relative may be available and appropriate, prioritizes assessment, using criteria outlined in policy.
- Requests continuance of temporary care hearing, if necessary to complete assessments.
- Reports to the court using division forms:
  - Assessment of Suitability of Noncustodial Parent (FS-805)
  - Assessment of Suitability of Relative or Other Person with Significant Relationship to Child (FS-806)